

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KENNETH DALE GILDERSLEEVE,

Petitioner,

v.

Case No. 2:08-cv-71
HON. R. ALLAN EDGAR

MICHAEL CURLEY,

Respondent.

MEMORANDUM AND ORDER

Michigan state prisoner Kenneth Dale Gildersleeve filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation. On April 25, 2011, Magistrate Judge Greeley submitted his report [Doc. No. 22] recommending that the habeas petition be denied and that any application for a certificate of appealability be denied pursuant to 28 U.S.C. § 2253(c)(2).

Petitioner Gildersleeve has not timely filed an objection to the report and recommendation. After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The Court concludes that the 28 U.S.C. § 2254 petition for writ of habeas corpus shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Gildersleeve files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R.

App. P. 22(b)(1). For the reasons expressed in the report and recommendation, petitioner Gildersleeve has not made a substantial showing of the denial of a federal constitutional right. Reasonable jurists could not find that this decision to dismiss with prejudice each and every claim for relief presented in the habeas petition is debatable or erroneous. *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2009); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Webb v. Mitchell*, 586 F.3d 383, 401 (6th Cir. 2009).

A separate judgment will be entered.

SO ORDERED.

Dated: May 23, 2011.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE